

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COVINGTON 18 PARTNERS, LLC,

Plaintiff,

vs.

LAKESIDE INDUSTRIES, INC. et al.,

Defendants.

No.: 2:19-cv-000253 BJR

THIRD-PARTY DEFENDANTS
FIDELITY NATIONAL TITLE INSURANCE
COMPANY AND FIDELITY NATIONAL
TITLE OF WASHINGTON, INC.'S,
PRETRIAL STATEMENT

Pursuant to LR 16(i), third-party defendants Fidelity National Title Insurance Company and Fidelity National Title of Washington, Inc. (collectively "Fidelity") serve this Pretrial Statement on third-party plaintiff Attu, LLC.

1. Federal Jurisdiction.

This court does not have jurisdiction because there are no pending claims against the Bonneville Power Administration ("BPA") now that the court has granted plaintiff's Motion for Summary Judgment and resolved all issues involving the BPA. The only remaining claims are Attu's state causes of action against Fidelity. Attu does not assert any independent jurisdictional

1 basis that establishes jurisdiction. Supplemental jurisdiction is not warranted because none of the
 2 factors stated in 28 U.S.C. § 1367 apply.

3 2. Affirmative Defenses and Claims.

4 Fidelity intends to assert and pursue all affirmative defenses at trial, including: that this
 5 court lacks jurisdiction; Attu fails to state a cause of action; Attu is not an insured under the title
 6 insurance policy; Washington does not recognize third-party insurance claims; Attu lacks
 7 standing; all title work was done for the benefit of the buyer; the easement at issue was
 8 unrecorded; and Attu cannot establish negligent title work. Fidelity does not assert any
 9 counterclaims, and is not seeking affirmative relief other than the award of attorneys' fees and
 10 costs.
 11

12 3. Objections to third-party plaintiff's Statement of Issues of Law.

13 Beyond Jurisdiction, issues of law include whether RCW 19.86.020 applies; whether
 14 Fidelity owed any duty to Attu other than to fulfill the parties' joint escrow instructions; whether
 15 Attu is entitled to assert its claims; whether Attu may assert a negligence claim; and whether
 16 Attu may assert any damages.
 17

18 4. Witnesses.

19 Paul Kemp
 20 c/o Mark E. Bardwil, WSBA #24776
 21 MARK E. BARDWIL, P.S.
 22 615 Commerce Street, Suite 102
 23 Tacoma, Washington 98402
 24 Telephone: (253) 383-7123
 25 meb@markbardwil.com
 Attorney for Covington Land, LLC

Mr. Kemp may testify as to the underlying transaction.

Walter Miles
c/o Mark E. Bardwil, WSBA #24776
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615 Commerce Street, Suite 102
Tacoma, Washington 98402
Telephone: (253) 383-7123
meb@markbardwil.com
Attorney for Covington Land, LLC

Mr. Miles may testify as to the underlying transaction.

Corporate representative
Fidelity National Title Insurance Company
c/o Henry K. Hamilton, WSBA #16301
Fidelity National Law Group
701 – 5th Avenue, Suite 2710
Seattle, WA 98104
Phone: (206) 224-6001
henry.hamilton@fnf.com

A corporate representative will testify as to the file records, scope of work, nature of the work, work performed and quality of the work.

Cindy Foley or corporate representative
Fidelity National Title of Washington, Inc.
c/o Henry K. Hamilton, WSBA #16301
Fidelity National Law Group
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Phone: (206) 224-6001
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Cindy Foley or a corporate representative will testify as to the file records, scope of work, nature of the work, work performed and quality of the work.

5. Exhibits.

Fidelity intends to offer the Declarations and other documents in the court file. Fidelity reserves the right to use those records identified in Attu's submission, and use additional documents for rebuttal or impeachment purposes.

6. Deposition Transcripts.

Fidelity does not intend to offer any deposition records.

DATED this 24th day of August, 2020.

FIDELITY NATIONAL LAW GROUP

/s/ Henry K. Hamilton

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